

SAN LUIS OBISPO PLANNING DEPARTMENT HEARINGS
MINUTES OF THE MEETING OF

August 5, 2005

Minutes of the Regular Meeting of the County Planning Department Hearings held in the San Luis Obispo County Planning and Building Department Conference Room, County Government Center, San Luis Obispo, California, at 9:00 a.m.

The meeting is called to order at 9:00a.m. by John Euphrat, Hearing Officer.

The following action minutes are listed as they were acted upon by the Hearing Officer of the Planning Department Hearings and as listed on the agenda for the Regular Meeting of August 5, 2005, together with the maps and staff reports attached thereto and incorporated therein by reference.

PUBLIC COMMENT PERIOD

None

CONSENT AGENDA:

None

NON-HEARING ITEMS:

1. This being the time set for hearing to consider a request by **MARK EPSTEIN – LEIMERT** (Lot 16) for a Minor Use Permit/ Coastal Development Permit to allow a new 3,055 square foot, 2-story single family dwelling, a 1,233 square foot attached garage, and a 600 square foot guesthouse within a 1.37 acre building envelope on a 43.91 acre lot. The total area of disturbance is approximately 20,600 square feet. The project is located at 6850 Kathryn Drive, approximately 500 feet from the intersection on Cambria Pines Road, east of Highway 1, in the Rural Lands land use category in the community of Cambria, in the North Coast planning area. The proposed project is found consistent with the previously certified Environmental Impact Report for the Cambria Pines Estates Tract Map 1804/Development Plan/Coastal Development Permit, Tract 1804 / D910279D. **County File Number: DRC2004-00230.** APN: 013-085-016; 013-085-020. Supervisorial District: 2. Date Accepted: June 29, 2005. Marsha Lee, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Thereafter, on motion of the hearing officer, the Negative Declaration is adopted in compliance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000, et seq., and the Minor Use Permit/Coastal Development Permit is granted based on Findings A through Q in Exhibit A, and subject to Conditions 1 through 40 in Exhibit B. (Document No. 2005-119)

2. This being the time set for hearing to consider a request by **GREENSPACE** for a Minor Use Permit/Coastal Development Permit and Grading to allow the Fiscalini/Santa Rosa Creek bank stabilization project that requires the movement of the existing channel away from the rapidly eroding left bank and incorporating hard and soft protective measures to the left bank. The length of the stabilization site is approximately 350 feet. The project includes approximately 3.75 acres of site disturbance in the Agriculture land use category. The stabilization project is located on Santa Rosa Creek Road, approximately ¼ mile upstream of the Ferasci Road crossing on the Fiscalini property east of the community of Cambria, in the North Coast planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the project pursuant to Public Resources Code Section 21000 et seq. Mitigation measures are proposed to address soil, vegetation, wildlife, water quality and aquatic life.

County File Number: DRC2003-00045. Supervisorial District 2. APN: 013-161-002 and -003. Date Accepted: May 5, 2005. Marsha Lee, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Others: Richard Hawley, agent.

Thereafter, on motion of the hearing officer, Negative Declaration is adopted, in compliance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000, et seq., and the Minor Use Permit is granted based on Findings A through O in Exhibit A, and subject to Conditions 1 through 94 in Exhibit B. (Document No. 2005-120)

3. This being the time set for hearing to consider a request by **KEVIN MCCLORY** for a Minor Use Permit/Coastal Development Permit to allow development of an approximately 1,507 square-foot addition, including an attached garage and new second story, to an existing, approximately 1,554 square-foot single-story, single-family residence, plus addition of second-story decks and ground-floor porches. The project will result in the disturbance of an additional approximately 500 square feet of a 9,162 square-foot parcel. The proposed project is within the Residential Single Family land use category and is located at 404 Old Creek Road in the community of Cayucos in the Estero Planning Area. This project is exempt under CEQA. **County File No: DRC2004-00247.** APN: 064,264,051,-052. Supervisorial District: #2. Date Accepted: June 13, 2005. Mike Wulkan, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Thereafter, on motion of the hearing officer, the Minor Use Permit/Coastal Development Permit is granted based on Findings A through G in Exhibit A, and subject to Conditions 1 through 16 in Exhibit B. (Document No. 2005-121)

4. This being the time set for hearing to consider a request by **MARK OBER** for a Minor Use Permit/Coastal Development Permit to allow the construction of a new single-family residence and attached garage with 2,485 square feet of footprint and 3,485 square feet of gross structural area. The project will result in the disturbance of approximately 5,000 square feet of a 6,000 square foot parcel. The proposed project is within the Residential Single Family land use category located on Benson Drive, approximately 400 feet west of Ardath Avenue, Lodge Hill, in the community of Cambria in the North Coast planning area. This project is exempt under CEQA. **County File No: D010346P.** APN: 023-068-004. Supervisorial District: 2. Date Accepted: May 7, 2003. Martha Neder, Project Manager.

Hearing Officer: John Euphrat

Thereafter, on motion of the hearing officer, the Minor Use Permit/Coastal Development Permit is granted based on Findings A through N in Exhibit A, and subject to Conditions 1 through 27 in Exhibit B. (Document No. 2005-122)

5. This being the time set for hearing to consider request by **BETTY SHERER** for a Minor Use Permit to allow construction of a 1,154 square foot secondary dwelling with attached 550 square foot garage/workshop approximately adjacent to the primary residence. The project will result in the disturbance of approximately 5,000 square feet of a 2.5 acre parcel. The proposed project

is within the Residential Suburban land use category and is located at 1611 Badger Canyon Road, approximately one mile north of the City of Arroyo Grande, in the San Luis Bay (Inland) planning area. This project is exempt under CEQA. **County File No: DRC2004-00154.** APN: 044-501-007. Supervisorial District: 4. Date Accepted: April 29, 2005. Brian Pedrotti, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Others: John Mack, agent.

Thereafter, on motion of the hearing officer, the Minor Use Permit is granted based on Findings A through G in Exhibit A, and subject to Conditions 1 through 11 in Exhibit B. (Document No. 2005-123)

6. This being the time set for hearing to consider request by **KAY WILLIAMS** for a Minor Use Permit to allow the placement of a pre 1976 mobile home as a second primary residence. Additionally, the applicant is requesting a waiver of the exterior design standards required by Section 22.30.450(E) of the county code for siding, roof material and roof overhangs. The project will result in the site disturbance of 1,500 square feet on a 200+ acre parcel. The proposed project is within the Agriculture land use category located at 111 E. El Campo Road, approximately one mile south of the El Campo Road intersection with Highway 101 and the City of Arroyo Grande, in the South County (Inland) Planning Area. This project is exempt under CEQA. **County File No: DRC2004-00202.** APN: 075-081-005. Supervisorial District: 4. Date Accepted: June 7, 2005. Brian Pedrotti, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Others: Amy Henry, agent.

Thereafter, on motion of the hearing officer, the Minor Use Permit is granted based on Findings A through G in Exhibit A, and subject to Conditions 1 through 9 in Exhibit B. (Document No. 2005-124)

HEARING ITEMS:

7. This being the time set for continued hearing to consider a request by **CAROLYN SOMOGYI** for a Minor Use Permit to allow the conversion of an existing 3,200 square foot barn to a winery and to allow the construction of a 1,200 square foot tasting room. The project will result in the disturbance of approximately 5,400 square feet of an 18.5 acre parcel. The applicant is requesting permission to hold up to six special events per year with up to 80 attendees. The applicant is requesting a waiver of the 20-acre minimum site requirement for wineries with special events that special events and tasting be set back at least 200 feet from any property line. Applicant is proposing to place the tasting room approximately 40 feet from the front property line and to convert an existing barn, located approximately 30 feet from the front property line, to a winery. Applicant is requesting a waiver of the requirement that tasting rooms be located within 200 feet of the production facility, proposing to locate the tasting room approximately 900 feet from the production facility. The proposed project is within the Agriculture land use category and is located at 8395 Green Valley Road, six miles west of the community of Templeton, in the Adelaida planning area. The Environmental Coordinator finds that the previously adopted Negative Declaration is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes occur with respect to the circumstance under

which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted. **County File No: DRC2004-00211.** APN: 014-271-029. Supervisorial District: 1. Date Accepted: June 1, 2005. Nick Forester, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Others: Carolyn Somogyi, owner/applicant.

Nick Forester, staff, presents project. Recommends approval.

Thereafter, on motion of the hearing officer, the Negative Declaration is adopted, in compliance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000, et seq., and the Minor Use Permit is granted based on Findings A through H in Exhibit A, with changes as follows: add new Finding "I" to read: *"Waiver of the requirement that the tasting room be located within 200 feet of the production facility and approval of the placement of the tasting room approximately 900 feet from the production facility is justified because there is an existing, graded pad where the tasting room is proposed and approval of the waiver would minimize grading and site disturbance. Additionally, since the area surrounding the existing production facility is planted with grapes, approval of the waiver request would minimize the impact to existing agriculture, infrastructure, and crops. Additionally, staff would like to add that the proposed location of the tasting room was historically used as a produce stand."*; and, subject to Conditions 1 through 43 in Exhibit B, with changes as follows: Condition 1, add new item to read *"Placement of the tasting room approximately 900 feet from the production facility."*; delete Condition 4.c.; and changes to the staff report to include: page 2, under the heading Project History, first sentence – change July 27,2005 to July 27,2000; on page 3 under the heading "Location", delete the last sentence entirely; on page 3 under the heading "Community Advisory Group Comments", replace the whole sentence to read: *"The Templeton Advisory Council unanimously recommends approval of this project."* (Document No. 2005-125)

8. This being the time set for hearing to consider a request by **LEO AND KAREN HAVERLY** and **TOM AND DEB HARRIS** for a Lot Line Adjustment to adjust the lot lines between three parcels of 19.59, 9.72 and 9.72 acres each. The adjustment will result in three parcels of 15.62, 10.00 and 13.41 acres each. The project will not result in the creation of any additional parcels. The proposed project is within the Agriculture land use category located at 5995 North River Road, approximately 4 miles north of the City of Paso Robles, in the Salinas River planning area. This project is exempt under CEQA. **County File No: SUB 2004-00297/ COAL05-0056.** APN: 026-431-003. Supervisorial District 1. Date Accepted: June 23, 2005. Karen Nall, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Others: Tami Clark – Vaughn's Surveys

Karen Nall, staff, has no comments.

Tami Clark, agent, states she has no comments. Is present for any questions.

Thereafter, on motion of the hearing officer, the Lot Line Adjustment is approved based on Findings A through D in Exhibit A, and subject to Conditions 1 through 10 in Exhibit B. (Document No. 2005-126)

9. This being the time set for hearing to consider a request by **SEBASTIAN ANDREATTA** for a Minor Use Permit/Coastal Development Permit to allow an existing single-family residence to be used as a vacation rental. The existing residence is within 200 feet of another vacation rental on the same street. There will be no construction activities with this permit approval. The proposed project is within the Residential Single Family land use category and is located at 1821 Ogden Dr., in the community of Cambria, in the North Coast planning area. This project is exempt under CEQA. **County File Number: DRC2004-00199.** APN: 023-122-024. Supervisorial District: 2. Date Accepted: June 17, 2005. Ryan Hostetter, Project Manager.

MINUTES:

Hearing Officer: John Euphrat

Others: Margol Roberts, W.A. Edis, Ken & Joyce Renshaw, Joseph and Barbara Crowley, Sebastian Andreatta, Bob Kasper, Roger Ponol, Jess W. Bathke, neighbors.

Ryan Hostetter, staff, presents project. Sites Land Use Ordinance Standard 23.08.165 regarding Vacation Rentals, which reads: *"Within all residential land use categories, no residential vacation rental shall be located within 200 linear feet of a parcel on the same block on which is located any residential vacation rental or other type of visitor-serving accommodation that is outside of the Commercial land use category. This location standard can be modified through Minor Use Permit approval when a Development Plan is not otherwise required."* States the applicant is requesting to modify the current 200-foot limitation since the proposed vacation rental is located within 200 linear feet of an existing vacation rental, on the same street, on the same block. Explains the history of a similar project request in a different area of Cambria that was heard at a similar hearing with a recommendation of denial, which has now been appealed to the Board of Supervisors. States the Board of Supervisors ultimately recommended to uphold the appeal, but requested that staff return with further findings for the recommendation of denial. States the project has been continued to August 16, 2005 for consideration and final decision, and encourages attendees to follow those proceedings for the decision.

Bob Kasper, property manager, describes his agency's rental policies. Distributes handout for the record. Discusses vacation rental status in the area, and states there are only two vacation rentals in a 300 foot radius of his residence at 1821 Ogden and that there are only six other vacation rentals even remotely close (within a 450' radius) to 1821 Ogden. States the closest rental is 250' away. Distributes a street map for review. States his agency has paid over \$25,000 in Occupancy Taxes for 2005. States his agency generates the taxes but doesn't get them back. States if Cambria were an incorporated city, they would probably get most of the taxes back. States it is his understanding the County of San Luis Obispo gets the taxes and decides where they are to be disbursed, but does not know exactly how much Cambria receives. Distributes an area map for review. Describes location of proposed rental unit in relation to neighboring homes. States his agency has received only one complaint in over a year about a barking dog. Describes the paperwork his agency sends to possible renters regarding rental rules and regulations and the importance of maintaining the residential feel of the neighborhood. States these rules and regulations are strictly enforced. States every homeowner within 300' is sent notification, including a 24-hour contact name and phone number, whenever a new vacation rental comes on the market through his agency.

Sebastian Andreatta, applicant, states he is very sensitive to the types of renters he selects. States he does not like to rent for long periods of time, nor has he ever had problems with prior renters. Replies to the American's with Disabilities Act question posed by Mr. Renshaw. States his belief that there isn't a single hotel in the San Luis Obispo area that meets this requirement due to the dollar amount

required to do so, and doesn't think this is much of an issue. He questions whether or not signs are posted on Ogden indicating no parking is allowed. States the community should put signs up if they don't already exist. States he always asks renters of his unit to park in the garage. States his agreement about the street being too narrow for parking. States he wishes to be a good community member, and understands the concerns of the residents.

Joyce Renshaw, neighbor, asks what the ramifications would be should Mr. Kaster leave his agency and someone else take his place. Cites parking concerns, stating there is no parking enforcement in the area. States she feels this will result in health and safety hazards on Ogden. Discusses the 22' width of the paved street, and the slope of the lots that prevents parking off the pavement. States vehicles cannot be parked on both sides of the street, as she feels this will hinder emergency vehicle access. States reducing the spacing of vacation rentals to 100' will change the character of the neighborhood. Reads from written script for the record.

Ken Renshaw, neighbor, states approval of this project will violate the Americans with Disabilities Act (ADA). States he feels the County is responsible for compliance of ADA rules and regulations on vacation rentals to ensure they are compliant. Presents documentation for the record.

Margol Roberts, neighbor, discusses area map. States she is opposed to creating a vacation rental at 1820 Oxford within 200 linear feet of an existing rental. States allowing this property to become a vacation rental will set a precedent for others to also seek licenses within 200 feet of other existing vacation rentals. States Mr. Kasper's agency does not post rental addresses on their web site, so she does not know if one of his is next door to her. She lives next door to 1868 Marlboro, which is a vacation rental 100 feet from 1815 Marlborough. States there are ten other rental units within a 300' radius from her home, on Kerwin, Lamton, Laurel, Oxford and Ogden. Distributes a chart she has created of vacation rental density percentages for which she would like clarification on linear footage between units. Cites her concerns, including parking, noise from loud music and television, outdoor lights consistently being left on, motorcycle noise, trash, gates being left open, and use of hot tubs late into the night. States there have been as many as 20 individuals at 1815 Marlborough and as many as 11 individuals next door to her on more than one occasion. States on at least two occasions, children skateboarded down her flagstone front steps. States she has never received a letter with contact information from any rental agency. Presents copies of her comments and photos for the record. Asks about Occupancy Taxes and how they are dispersed. Is requesting denial of the project.

Barbara Crowley, neighbor, cites some discrepancies in the staff report for the record. States the name of the street referenced in Finding "F" is shown as Cambridge St. and believes it should be Ogden. There is also a reference to a 50' wide distance on the paved street. States she believes the correct width of the paved road is 22 or 26' wide, and asks if perhaps the wrong criteria are being used for judgment on this project. States the renters residing next door to her property are always parking in the street, making access to her residence difficult. States this particular street has a good amount of beach access and consequently, there is a lot of pedestrian traffic. States the parking on the street creates a hazard for pedestrians.

Joseph Crowley, neighbor, discusses street map of Ogden property. Discusses the number of houses that could possibly become vacation rentals on his street. States three of the eight houses on his side of the street could conceivably become rentals, which would raise the rental percentage to almost 50% or half the houses in the immediate vicinity. States he believes this really goes against what the city ordinance is supposed to be for, which is mostly for a residential, retirement type community.

Art Edis, neighbor, reads comments for the record. Cites paragraph 23.08.165 (c) from Exhibit B, "Amendments to Title 23 of the San Luis Obispo County Code, the Coastal Zone Land Use Ordinance Chapter 23.08 Relating to Residential Vacation Rentals" for the record, which states no vacation rental shall be located within 200 linear feet of another vacation rental. States this is the regulation that should apply to this project today. Cites a recent article in the news regarding vacation rentals in which the County Board of Supervisors has agreed to review the ordinance in September 2005. States he feels no decision should be made on vacation rentals until the city ordinance is reviewed and clarified. States he is against approval of this project.

Larry Edwards, neighbor, discusses home on Newhall stating it often generates a lot of noise. States homes are very dense in the area, which exacerbates the noise levels. States he believes approval should be delayed until the Board of Supervisors reaches a decision on the Ordinance. States concerns with allowing too many rentals and the effects it may have on the character of the community.

John Lamb, neighbor, states he moved to Cambria for the residential feel of the area. States his concerns of possible change in character to the area due to rentals. Discusses noise problems. States he takes exception to the staff report, in particular the definition that staff applies to the 200 linear feet apart on the same block. States he has issues with the language used. States he believes staff has decided the linear foot standard means "must be located on the same side of the street and within the same block". Mr. Lamb states this is simply not supported by the language in the regulations. Would like the project delayed until the county comes up with a valid, workable and clear definition of what the 200 linear foot standard actually means. Mr. Lamb states the county has no clear definition of what the standard is, and feels this affects individuals' due process. States he feels granting modification to the location standards to allow a vacation rental be located closer than 200 linear feet on the same block to an existing residential vacation rental will be inconsistent with the character of the immediate neighborhood and is contrary to its orderly development. States he opposes the project.

Joyce Lamb, neighbor, discusses residents in the home on Newhall. States on many occasions, there are many individuals in the home at the same time and believes it is entirely too many to be residing in a one-bedroom residence. States concerns with noise, drinking, trash, and parking. States she opposes the request for permit.

Jess Bathke, neighbor, states he is not present to protest this particular permit request. States he has a rental unit next to him and hasn't experienced many problems. States he has experienced some noise disturbance, but usually just yells at the renters to keep the noise down. Comments on the city ordinance reference to 200 linear feet, which seems to him to be appropriate to cut the density issue. Asks for clarification of radial linear feet and whether it means property line to property line or does it mean structure to structure. Clarification is given to Mr. Bathke as property line to property line. Cites the residence that Ms. Roberts says she is having problems with is also within 200 feet of his residence. States the close proximity of the homes helps carry noise much easier, especially at night.

Roger Ponol, neighbor, cites his agreement with what everyone else has said here today. States the economics of the community depends heavily on its citizens, and feels when you turn a residence into a business, it drastically changes the community environment.

Ms. Hostetter, staff, thanks Ms. Crowley for her earlier correction of the street referenced in Finding "F" shown as Cambridge St., which should read Ogden. States Ogden does have a Public Works' right-of-way of 50 feet. States it is nearer to 20 to 22 feet in some sections, and that Ms. Crowley is correct. Discusses the difference between ownership right-of-way versus paved road right-of-way. Explains the reason for giving a business license to a vacation rental is to be able to receive the transit occupancy

taxes. States the taxes then go to the County, who provides various services to Cambria, since Cambria is not an incorporated city. Cites three similar requests currently in process for vacation rentals, and that staff has asked for clarification of the ordinance as it relates to them, but the Board of Supervisors has not given staff direction to not process these requests until the ordinance is reviewed and/or changed. Staff is legally required to process those requests currently in the system, and any others that may come in, until the ordinance has been reviewed and/or changed by the Board of Supervisors.

Hearing officer discusses the public hearing process. Discusses attendees' concerns with the county ordinance, and advises that the county must enforce them. Cites his familiarity with the ordinance. Explains there were many concerns at both the local and state levels from the Coastal Commission as part of the adoption of these rules and regulations, specifically the 200-foot requirement. Explains that the law states individuals have a legal right to request their homes be used as vacation rentals, and that the only reason they would have to come to a hearing is if they don't meet the 200-foot requirement. Encourages attendees to follow those similar projects in process at the Board of Supervisors' meeting on August 16, 2005 and future meetings in the Fall to enable them to give suggestions on how they wish the ordinance to read. Explains that 200 linear feet means a straight line right down the street, property line to property line, and on the same side of the block. There is further discussion on coastal zone requirements. Explains the notification process. Reiterates Ms. Hostetter's previous statement that staff does not have the liberty to hold off on making a decision today until the Board of Supervisors makes a decision on a similar project.

Thereafter, on motion of the hearing officer, the Minor Use Permit/Coastal Development Permit is denied based on Findings A through G in Exhibit A, with the following changes: in Finding B, Exhibit A, line 1, change "consistent" to "inconsistent"; line 2, delete verbiage "because the use is an allowed use, and as conditioned,..."; line 2, change "consistent" to "inconsistent"; Finding C, delete entirely; Finding D, line 1, delete the word "not"; line 5, delete the word "not"; Finding E, line 1, delete the word "not"; line 3, delete the entire second sentence; Finding F, delete all; Finding G, delete all; re-letter Findings as A through D.

There being no further business to discuss, the hearing is adjourned.

Respectfully submitted,
Mary Velarde, Secretary
Planning Department Hearings